

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MONTY CHRISWELL,
Plaintiff,

-vs.-

DEMAND FOR JURY TRIAL

PENTAGROUP FINANCIAL, LLC,
a Texas limited liability company,
Defendant.

COMPLAINT & JURY DEMAND

Plaintiff, through counsel, Nitzkin and Associates, by Gary Nitzkin states the following claims for relief:

JURISDICTION

1. This court has jurisdiction under the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §1692k(d) and 28 U.S.C. §§1331,1337.
2. This court may exercise supplemental jurisdiction over the related state law claims arising out of the same nucleus of operative facts which give rise to the Federal law claims.

PARTIES

3. The Defendant to this lawsuit is Pentagroup Financial, LLC which is a Dallas company that maintains registered offices in Ingham County.

VENUE

4. The transactions and occurrences which give rise to this action occurred in Genessee County.
5. Venue is proper in the Eastern District of Michigan.

GENERAL ALLEGATIONS

6. Defendant is attempting to collect a consumer type debt allegedly owed by Plaintiff.
7. Defendant first started calling Plaintiff sometime in November 2012.
8. On or about November 26, 2012, Plaintiff, through Nitzkin & Associates, sent Defendant a cease and desist letter.
9. On or about December 10, 2012, Defendant called Plaintiff.
10. On or about December 18, 2012, Defendant called Plaintiff again. When Plaintiff answered the phone, the phone hung up. Plaintiff then called Defendant back to find out who they were. Once Defendant told Plaintiff that they were calling from Pentagroup Financial, Plaintiff told Defendant that he sent them a cease and desist letter. Defendant replied by telling Plaintiff that they did not have anything on file. Plaintiff also told Defendant not to call him after 8:00 p.m. and Defendant replied, "No, sir, I'm allowed to call up until 9:00 p.m." Defendant then said, "Have a nice night, and then hung up."
11. On or about December 28, 2012 around 9:58 a.m., Defendant called Plaintiff again.

COUNT I - FAIR DEBT COLLECTION PRACTICES ACT

12. Plaintiff reincorporates the preceding allegations by reference.
13. At all relevant times Defendant, in the ordinary course of its business, regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
14. Plaintiff is a "consumer" for purposes of the FDCPA and the account at issue in this case is a consumer debt.
15. Defendant is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).
16. Defendant's foregoing acts in attempting to collect this alleged debt violated 15 U.S.C. §1692 et. seq;
17. The Plaintiff has suffered economic, emotional, general and statutory damages as a result of these violations of the FDCPA.

COUNT II - VIOLATION OF THE MICHIGAN OCCUPATIONAL CODE

18. Plaintiff incorporates the preceding allegations by reference.
19. Defendant is a "collection agency" as that term is defined in the Michigan Occupational Code ("MOC"), M.C.L. § 339.901(b).
20. Plaintiff is a debtor as that term is defined in M.C.L. § 339.901(f).
21. Defendant's foregoing acts in attempting to collect this alleged debt violated MCL §339.915
22. Plaintiff has suffered damages as a result of these violations of the Michigan Occupational Code.
23. These violations of the Michigan Occupational Code were willful.

COUNT III - VIOLATION OF THE MICHIGAN COLLECTION PRACTICES ACT

24. Plaintiff incorporates the preceding allegations by reference.
25. Defendant is a "Regulated Person" as that term is defined in the Michigan Collection Practices Act ("MCPA"), at MCL § 445.251.
26. Plaintiff is a "Consumer" as that term is defined at MCL § 445.251.
27. Defendant's foregoing acts in attempting to collect this alleged debt violated MCL §445.252
28. Plaintiff has suffered damages as a result of these violations of the MCPA.
29. These violations of the MCPA were willful.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury in this action.

DEMAND FOR JUDGMENT FOR RELIEF

Accordingly, Plaintiff requests that the Court grant him the following relief against the defendant:

- a. Actual damages.
- b. Statutory damages.
- c. Treble damages.
- d. Statutory costs and attorney fees.

Respectfully submitted,

January 14, 2013

/s/ Gary Nitzkin

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MICHIGAN CONSUMER CREDIT LAWYERS

Attorneys for Plaintiff